

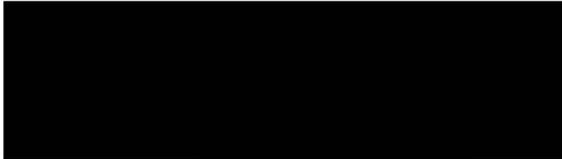


U.S. Citizenship
and Immigration
Services

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

134



FILE:

SRC 03 053 51400

Office: TEXAS SERVICE CENTER

Date: JUN 01 2006

IN RE:

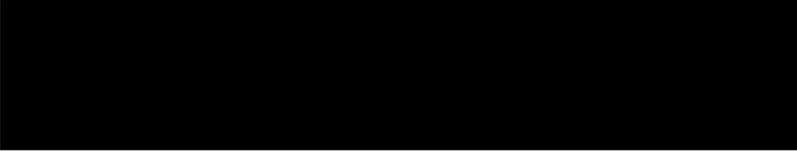
Petitioner:

Beneficiary:



PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Texas Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a Texas corporation operating as a grocery store. It seeks to employ the beneficiary as its manager. Accordingly, the petitioner endeavors to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C), as a multinational executive or manager. The director denied the petition based on the following independent grounds of ineligibility: 1) the petitioner does not have a qualifying relationship with the foreign entity as claimed; 2) the beneficiary was not employed abroad in a qualifying managerial or executive capacity; 3) the beneficiary would not be employed in the United States in a managerial or executive capacity; 4) the petitioner failed to provide sufficient evidence documenting its business activity from December 10, 2001 to the present; and 5) the petitioner failed to establish its ability to pay the beneficiary's proffered wage.

On appeal, counsel disputes the director's finding regarding the petitioner's claimed affiliate relationship with [REDACTED] located in Canada. He states that the considerable inconsistency discovered during an interview conducted by an immigration inspector in Toronto, Canada on February 10, 2003 was merely a misunderstanding. However, it is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). In the instant matter, counsel does not specifically identify an erroneous conclusion of law or statement of fact by the director and attempts to overcome a sworn statement made by the beneficiary under oath by implying that the beneficiary did not fully understand the questions asked during the interview. It is noted that the unsupported statements of counsel on appeal or in a motion are not evidence and thus are not entitled to any evidentiary weight. *See INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503 (BIA 1980).

Counsel also failed to address the remaining four grounds for ineligibility cited in the director's denial of the petition and indicated on the petitioner's Form I-290B that a separate brief or evidence would not be submitted. Accordingly, the record will be considered complete as currently constituted.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the petitioner has not sustained that burden. Therefore, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.